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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,902	03/15/2004	Robert L. Turk	13615.60	1473
7590	07/28/2004			
Lisa M. Soltis Illinois Tool Works Inc. 3600 West Lake Avenue Glenview, IL 60025			EXAMINER DURAND, PAUL R	
			ART UNIT 3721	PAPER NUMBER

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

4W

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,902	<b>Applicant(s)</b> TURK, ROBERT L.	
	<b>Examiner</b> Paul Durand	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolich (US 4,403,722) in view of Schubert et al (US 4,568,243).

In regard to claims 1,3,6,9,11 and 12, Nikolich discloses the invention substantially as claimed including a combustion powered tool 10, fan 51, motor 61, a one piece suspension mechanism or mount in the form of resilient member 65,

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comprised of an inner ring shaped edge (no number given), secured and in direct contact to the motor, an outer ring shaped edge (no number given) secured to the cylinder head 25, and ring shaped retainer in the form of arcuately shaped cap 66 (see Fig. 2 and C9,L24-35). What Nikolich does not disclose is the suspension being manufactured from an elastic and elastomer material. However, Schubert teaches that it is old and well known in the art of fan suspensions to provide a elastic element 56 manufactured from an elastomer material, with inner <sup>and</sup> outer frames manufactured from a stiffer elastomer material for the purpose of isolating vibrations (see Figs. 2,4,5,6 and C3,L45 – C4,L21). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the invention of Nikolich with the suspension means as taught by Schubert for the purpose of isolating vibrations.

In regard to claims 2,4 and 13, Nikolich discloses the invention substantially as claimed including a suspension mechanism 65, mounted between the fan motor and the cylinder head, and projects radially from the fan motor (see Fig.2).

In regard to claims 5 and 10, Nikolich discloses the invention substantially as claimed including a suspension mechanism 65 that is an integral piece (see Fig.2)

In regard to claims 7 and 14, the modified invention of Nikolich discloses the invention substantially as claimed as applied to claims 1 and 9 above, including a ring shaped retaining cap 66, which secure resilient member 65 to the cylinder head. What the modified invention of Nikolich does not disclose is the use of a snap ring to secure the suspension ring to the cylinder head. However, the examiner takes Official Notice

that it is old and well known in the art to provide a snap ring or a retaining ring to hold an object inside a recess for the purpose of preventing the accidental removal of the object. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Nikolich with a snap or retaining ring instead of a ring shaped retaining cap for the purpose of preventing the accidental removal of the suspension mechanism.

In regard to claims 8 and 15, Nikolich discloses the invention substantially as claimed including a ring shaped retainer in the form of arcuately shaped cap 66 (see Fig. 2).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Deieso et al, Hu et al, Fogarty, Bertolini et al, Baker, Lykes, LaFlame and McCullough have been cited to show devices having similar structure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
July 26, 2004



EUGENE KIM  
PRIMARY EXAMINER